

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

SUNEET S. BATH, DMD PS, d/b/a
Impressions Dentistry Family Cosmetics,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

TRAVELERS CASUALTY INSURANCE
COMPANY OF AMERICA,

Defendant.

No. 3:20-cv-5489-BJR

**CORRECTED STIPULATED
MOTION AND ORDER**

Plaintiff Sunseet S. Bath, DMD PS, together with each Plaintiff listed in Paragraph 1, below (collectively, "Plaintiffs") and Defendants Travelers Casualty Insurance Company of America, The Travelers Indemnity Co. of America, and The Charter Oak Fire Insurance Company (collectively, "Travelers") stipulate 1) that Plaintiffs shall file an amended consolidated complaint on or before October 16, 2020, 2) that Defendants shall answer, move, or otherwise respond to Plaintiffs' amended complaint no later than November 6, 2020, and 3) with respect to other matters as set forth below.

WHEREAS:

1. On September 9, 2020, Defendant moved to dismiss Plaintiffs' six complaints, which are based on substantially similar insurance policies, by filing six substantially similar motions in the following actions: *Bath v. Travelers*, No 3:20-05489-BJR, *Fox v. Travelers*, No. 2:20-cv-00598-BJR, *Hsue v. Travelers*, 2:20-00622-BJR, *Kashner v. Travelers*, No, 2:20-cv-00625-BJR, *Nguyen v. Travelers*, No. 2:20-00597-BJR, and *Stan's Bar-B-Q v. Charter Oak*, 2:20-00613-BJR. The motions were filed under Rule 12 for failure to state a claim upon which relief can be granted.
2. In May and June 2020 Plaintiffs filed amended complaints in some of the above-referenced actions and Plaintiffs intend on filing amended complaints, and requesting leave to file amended complaints in other of the above-referenced actions, in order to update all six matters and to further the goal of efficiency in coordinating and consolidating these cases.
3. Pursuant to Stipulation and Order (Dkt # 28), Plaintiffs' six responsive pleadings are due October 16, 2020.
4. On October 12, 2020, counsel for the parties conferred via telephone and discussed various methods through which this matter and other matters filed against Defendants by Plaintiffs' counsel might be most efficiently organized.
5. The parties are continuing to consider and discuss that issue, together with the issues as to which the Court ordered the parties to meet and confer in its September 29, 2020 Scheduling Order.
6. In the meantime, and further in the interest of efficiency, the parties have agreed that Plaintiffs will file a consolidated amended complaint on October 16, 2020, which, absent further leave of Court, will be Plaintiffs' final amendment to the complaint, and Defendant may file its response on or before November 6, 2020.

7. The consolidated complaint will be filed in *Nguyen v. Travelers*, No. 2:20-00597-BJR, which is the lowest-captioned action listed above. The consolidated complaint will bear the caption *Jennifer B. Nguyen, et al. v. Travelers Casualty Insurance Company of America, et al.*, and include all of the plaintiffs and defendants in the actions identified in Paragraph 1 above.
8. Plaintiffs will withdraw their motion to consolidate (Dkt #29) as to the six cases identified in Paragraph 1, in light of the parties' agreement to consolidate these six cases. Plaintiffs will not seek consolidation of these cases together with cases filed against other insurers, but will follow the Court's direction on this issue, and will meet and confer regarding potential coordination in accordance with the Court's Scheduling Order (Dkt #32). The defendants are not waiving and expressly reserving their right to be heard if the Court should consider any further consolidation of these six cases with others.
9. Assuming that the defendants file a Rule 12 motion to dismiss in response to the consolidated amended complaint, the parties agree and respectfully request, given that this will be a complex, consolidated putative class action matter, that the parties be permitted to file briefs on the motion to dismiss of the length provided for in LCR 7(e)(3), i.e., 24 pages for moving and opposition briefs and 12 pages for the reply brief, rather than the shorter limits provided for in Judge Rothstein's Standing Order.
10. The stipulation will not prejudice any party. The parties do not waive any claims or defenses with this stipulation.

IT IS HEREBY STIPULATED AND AGREED, pending the Court's approval, that Plaintiffs shall file a consolidated amended complaint by October 16, 2020 (which, absent further leave of Court, shall be Plaintiffs' final amendment to the complaint) in the *Nguyen v. Travelers*, No. 2:20-00597-BJR matter, which is the lowest-captioned action listed above. The consolidated amended complaint will bear the caption *Jennifer B. Nguyen, et al. v. Travelers Casualty Insurance*

1 *Company of America, et al.*, Defendant shall answer, move, or otherwise respond to Plaintiff's
2 consolidated amended complaint by November 6, 2020, Plaintiffs will withdraw their motion to
3 consolidate (Dkt. #29) as to the six Travelers actions identified in Paragraph 1 above, and any
4 motion to dismiss filed in response to the consolidated amended complaint will be governed by
5 the page limits in LCR 7(e)(3) rather than the shorter limits provided for in Judge Rothstein's
6 Standing Order.

7 The parties respectfully request that the Court enter the accompanying Proposed Order
8 granting the relief to which the parties have stipulated.

9
10 DATED this 14th day of October, 2020.

11 Presented by:

12 **KELLER ROHRBACK L.L.P.**

13 By: s/ Amy Williams-Derry
14 By: s/ Ian S. Birk
15 By: s/ Lynn L. Sarko
16 By: s/ Gretchen Freeman Cappio
17 By: s/ Irene M. Hecht
18 By: s/ Karin B. Swope
19 By: s/ Maureen Falecki
20 By: s/Nathan L. Nanfelt
21 Amy Williams-Derry, WSBA #28711
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Attorneys for Defendant

ORDER

The Court has considered this stipulation presented by Plaintiffs Bath et al., and Travelers, and the parties' [Proposed] Order. The Court **HEREBY ORDERS** that Plaintiffs may file a consolidated amended complaint (which, absent further leave of Court, shall be Plaintiffs' final amendment to the complaint) by October 16, 2020 in *Bath v. Travelers*, No 20-05489-BJR, *Fox v. Travelers*, No. 20-cv-00598-BJR, *Hsue v. Travelers*, 20-00622-BJR, *Kashner v. Travelers*, No., 20-cv-00625-BJR, *Nguyen v. Travelers* No. 20-597-BJR, and *Stan's Bar-B-Q v. Charter Oak*, 20-00613-BJR, in the *Nguyen v. Travelers*, No. 2:20-00597-BJR matter, which is the lowest-captioned action listed above. The consolidated amended complaint will bear the caption *Jennifer B. Nguyen, et al. v. Travelers Casualty Insurance Company of America, et al.* Defendant may answer, move, or otherwise respond to Plaintiff's amended complaint on or before November 6, 2020. Plaintiffs' motion to consolidate (Dkt. #29) is hereby withdrawn as to the six matters listed above. Plaintiffs will not seek consolidation of these cases together with cases filed against other insurers. The parties will follow the Court's direction, if any, on the issue of further consolidation, but the defendants are not waiving and expressly reserving their right to be heard if the Court should consider any further consolidation of these six cases with others. Any briefing on any motion to dismiss filed in response to the consolidated amended complaint will be governed by the page limits in LCR 7(e)(3) rather than the shorter limits provided for in the Standing Order.

The Clerk of Court is hereby notified that the caption in *Nguyen v. Travelers*, No. 2:20-00597-BJR, will be modified to accommodate the consolidated amended complaint discussed herein, and will bear the new caption *Jennifer B. Nguyen, et al. v. Travelers Casualty Insurance Company of America, et al.*

1 **IT IS SO ORDERED.**

2
3 Dated: October 15, 2020



Honorable Barbara J. Rothstein
UNITED STATES DISTRICT JUDGE